IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 27TH SEPTEMBER 2007 / 5TH ASWINA 1929

WP(C).No. 21949 of 2007(S)

OA.871/2006 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
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PETITIONER:

DR. V.M.MOHAMMED MUNEER,
ARABIC INTERPRETER, EMBASSY OF INDIA,
ABU DHABI, FROM CC NO.2/475, VALIAKANDATHIL,
CALVATHY, KOCHI, KERALA.

BY ADV. SRI.GEORGE VARGHESE(PERUMPALLIKUTTIYIL)
SRI.A.R.DILEEP

RESPONDENTS:
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1. UNION OF INDIA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT IN THE MINISTRY OF
EXTERNAL AFFAIRS, SOUTH BLOCK, NEW DELHI.

2. FIRST SECRETARY AND HEAD OF CHANCERY,
EMBASSY OF INDIA, P.O. BOX NO.4090,
UNITED ARAB EMIRATES, ABU DHABI.

BY ADV. SRI.P.PARAMESWARAN NAIR, ASST. S.G. (FOR R1 & R2)

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.BALAKRISHNAN NAIR & T.R.RAMACHANDRAN NAIR, JJ.

Writ Petition (C) No.21949 of 2007-S

Judgment

Balakrishnan Nair, J.

The applicant in OA No.871/06 before the Central Administrative Tribunal, Ernakulam Bench, is the writ petitioner. He is a locally recruited staff, attached to the Indian Embassy in Abu Dhabi. He is an Interpretor in Arabic. Claiming the benefit of an order of the Government of India in the Ministry of External Affairs, dated 09.12.1993, which is produced as Ext.P2 in this Writ Petition, he has filed a representation on 14.09.2003 before the Ambassador of India, Abu Dhabi. When there was no response to the said representation, even after the lapse of six months, he filed Ext.P4 Original Application before the CAT, Ernakulam Bench, seeking appropriate reliefs. The CAT took the view that the Ernakulam Bench has no jurisdiction to entertain the OA and dismissed the same. According to it, he should approach the Principal Bench at New Delhi. Ext.P6 is the order passed by the CAT. This Writ Petition is filed, challenging the said order. The learned counsel for the petitioner submitted that going by Rule 6 of the CAT (Procedure) Rules, 1987, the petitioner's

application can be filed before any Bench in India. He is seeking implementation of Ext.P2 order, which is an order issued by the Union of India. Its administrative jurisdiction extends to the whole of India. So, the refusal of the Ambassador, Abu Dhabi, who represents the Union of India, to consider his representation can be treated as a cause of action which arose anywhere in India. The embassy in a foreign country is treated as part of the territory of India, for the purpose of application of Municipal laws. So the petitioner submits, the stand of the Tribunal is untenable and therefore, Ext.P6 should be quashed and it should be directed to consider Ext.P4 on merits.

2. Rule 6 of the CAT (Procedure) Rules, 1987 reads as follows :

> "**Place of filing applications:**
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> **(1) An application shall ordinarily be filed by an applicant with the Registrar of the Bench within whose jurisdiction-**
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> **(i) the applicant is posted for the time being; or**
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> **(ii) the cause of action wholly or in part has arisen;**
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> **Provided that with the leave of the Chairman, the application may be filed with the Registrar of the Principal Bench and subject to the orders under S.25, such application shall be**

heard and disposed of by the Bench, which has the jurisdiction over the matter.

(2) Notwithstanding anything contained in Sub-rule (1), who have ceased to be in service by reason of retirement, dismissal or termination of service may at his option, file an application with the Registrar of the Bench within whose jurisdiction such person is ordinarily residing at the time of filing of the application".

The petitioner relies on Clause (ii) of Sub-rule (1) of Rule 6, which provides that the application can be filed before the Registrar of the Bench within whose jurisdiction, the cause of action wholly or in part arose. It is not in dispute that if the petitioner is not in service, he can maintain the application before the Ernakulam Bench as he may be treated as a person ordinarily residing in Kerala. But the Tribunal noticed that the petitioner is a locally recruited employee attached to the Abu Dhabi embassy and he is ordinarily residing there. The Tribunal took the view that the cause of action which arises in connection with an embassy outside India cannot be taken as a cause of action, which arose at Kochi as the embassy has no office in Kochi. It also

noticed that the embassy of India as well as other embassies are under the administrative control of the Ministry of External Affairs. So, the application should be filed before the Principal Bench at Delhi. In other words, the cause of action should be treated as one, which arose at New Delhi. We are of the opinion that the stand taken by the CAT on the facts of the case is a plausible view, which cannot be said to be perverse or one which no man in his senses will arrive at. It is a well settled position in law that on the same set of facts, two reasonable persons could come to directly opposite conclusions without forfeiting their title to be regarded as reasonable persons. So, even assuming a different view is possible, the difference of opinion with the view expressed by the Tribunal, will not be a ground to interfere with an order of the CAT in this jurisdiction under Article 226/227 of the Constitution of India. Accordingly, the Writ Petition fails and it is dismissed.

K.BALAKRISHNAN NAIR,JUDGE

27.09.2007 **T.R.RAMACHANDRAN NAIR, JUDGE**

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